



July 21, 2016

Mr. Christopher Stoneman
Office of Air Quality Planning and Standards
U.S. Environmental Protection Agency
Mail Code C-304-01
Research Triangle Park, North Carolina 27711

RE: Review of New Sources and Modifications in Indian Country: Federal Implementation Plan for Managing Air Emissions from True Minor Sources Engaged in Oil and Natural Gas Production in Indian Country, Docket ID No. EPA-HQ-OAR-2014-0606

Dear Mr. Stoneman:

Based on our review of the finalized Federal Implementation Plan (FIP) for New Minor Sources and Modifications and Indian Country, we have several questions regarding the final rule's requirements. We request guidance on how these rule provisions should be interpreted or applied. We would welcome the opportunity to discuss these issues via a meeting or teleconference at EPA's earliest convenience.

Western Energy Alliance represents over 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. Alliance members are independents, the majority of which are small businesses with an average of fifteen employees.

As we work to implement the new FIP, we have come up with several questions for EPA that we request it clarify. These questions range across a variety of topics, as grouped below.

Requirements regarding threatened or endangered species and historic properties

We have several questions regarding the requirement that operators document that they have assessed potential impacts to Endangered Species Act (ESA) listed species and National Historic Preservation Act (NHPA) resources.¹

- Can documents such as an approved Application for Permit to Drill (APD) from the Bureau of Land Management (BLM) and associated site-specific National Environmental Policy Act (NEPA) analysis be used to satisfy the species and cultural resource requirements? BLM requires NEPA analysis before APD

¹ 81 Fed. Reg. 35949 (June 3, 2016)

July 21, 2016

Page 2 of 3

approval, which includes analysis of the impact on species and cultural.

- Drilling from an existing wellpad rarely involves additional surface disturbance and associated impact on species and cultural resources. Would the original information submitted for the wellpad at the time it was permitted satisfy EPA's requirement for additional wells on an existing wellpad?
- Often, information from cultural resource surveys is sensitive and kept confidential by BLM in order to ensure protection from trophy hunters or other members of the public who might harm them. Will EPA likewise protect cultural resource information? If not, will there be provisions to hold operators exempt from damages due to EPA disclosure?
- What is the timeframe that EPA anticipates granting the approval of the screening procedures so that an operator can submit the Part I registration form?

Reduced emission completion requirements for oil wells

EPA incorporates the recently finalized New Source Performance Standards Subpart OOOOa rule into the FIP, requiring operators to comply with applicable requirements.² We seek clarification on how EPA will interpret OOOOa compliance for reduced emission completions for hydraulically fracture oil wells. OOOOa allows operators to claim exemptions from this requirement due to technical infeasibility. We request guidance from EPA on how it will apply this technical infeasibility exemption under the FIP.

- Will operators be permitted to explain their reasoning for technical infeasibility in the preconstruction registration rather than report at the end of the year?
- Certain tribal lands may lack sufficient natural gas gathering and takeaway capacity. If an operator raises that issue in the preconstruction registration, could it satisfy as a determination of technical infeasibility?

Other issues

- Is EPA a cooperating agency on the current draft Ft. Berthold Indian Reservation (FBIR) Draft Environmental Assessment (EA)? How will the NSR rule influence EPA's input on the Draft EA?
- Is there an example of when EPA intends to use the provision referenced below for source-specific permitting?

² 81 Fed. Reg. 35946 (June 3, 2016)

July 21, 2016

Page 3 of 3

§49.101(b)(3) Owners/operators of sources that meet the criteria specified in paragraph (b)(1) of this section that the Reviewing Authority requires to obtain a source-specific permit to ensure protection of the National Ambient Air Quality Standards as specified in § 49.155 before beginning construction are not required to comply with § 49.101 through 49.105.

We appreciate guidance on complying with the FIP on these and other questions, and welcome the opportunity for a conversation. We will be in contact with you shortly to arrange a potential meeting or teleconference.

Sincerely,



Kathleen Sgamma
Vice President of Government and Public Affairs